

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of**

**Isochem North America, LLC,**

**Respondent.**

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**Docket No. TSCA-02-2006-9143**

**ORDER REGARDING DEPOSITION**

By Order dated March 6, 2008, this Tribunal granted Complainant's request to take the deposition of Daniel L. Slick, Respondent's President and Chief Executive Officer. That Order further provided that "Respondent shall make . . . Daniel Slick, available for deposition during the week of April 7, 2008."

On March 28, 2008, by separate correspondence transmitted by facsimile, the parties advised that the only mutually convenient date for the deposition they had been able to agree upon was April 17, 2008, and therefore they each requested that the deposition be reset for that day. In addition, Complainant's correspondence requested that Respondent be required to overnight its answers to interrogatories and document production due on April 1, 2008.<sup>1</sup>

Based upon the agreement of counsel, Respondent is hereby **ORDERED** to make Daniel L. Slick, its President and Chief Executive Officer, available for deposition to be taken by Complainant's counsel at EPA's offices located at 290 Broadway, N.Y., NY, on **April 17, 2007** starting at 10 a.m. and continuing until, but no later than, 6 p.m. that day.<sup>2</sup>

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<sup>1</sup>The parties are hereby advised that requests for relief should be submitted in the form of motions under 40 C.F.R. § 22.16. Correspondence is not a recognized form for pleadings.

<sup>2</sup> In regard to this matter generally and the impending deposition specifically, counsel for both parties are reminded of their professional obligation to assure that their conduct is characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling their duties to represent their clients vigorously, they should always be mindful of their general obligation to the administration of justice, which is a truth-seeking process designed to resolve disputes in a *rational, peaceful, and efficient manner*. As such, they must actively abstain from conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive. More specifically, they are reminded of their obligations to avoid making any frivolous discovery request and/or to diligently comply with the proper discovery requests of an opposing party, consistent with rulings in this case. Conduct of counsel falling below such standards has been taken into account in determining the appropriate penalty to be imposed under the heading of "such other factors as justice may require." *See, e.g. Bollman Hat Co.,*

(continued...)

Further, Complainant's request to have Respondent's discovery responses served by "overnight" mail delivery is **DENIED**. Such responses being due on April 1, even if sent first-class mail, should arrive well before the deposition on April 17, 2008. In the event they do not, Complainant may renew its request at that time.

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Susan L. Biro  
Chief Administrative Law Judge

Dated: March 31, 2008  
Washington, D.C.

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<sup>2</sup>(...continued)

EPA Dkt. No. EPCRA-III-182, 1998 EPA ALJ LEXIS 18 \*46-47 (ALJ, March 17, 1998)(failure of Agency counsel to disclose its use of document resulted in a 25% reduction in penalty under the provision of "other factors as justice may require"), *penalty aff'd*, 8 E.A.D. 177 (EAB 1999); *C.W. Smith, et al.*, EPA Dkt. No. CWA-04-2001-1501, 2004 EPA ALJ LEXIS 128 \*167-68 (ALJ, July 15, 2004)(obstreperous behavior on the part of Respondents' counsel, hampering efficient adjudication of case, taken into account in imposing highest penalty permitted).

Further, the parties are advised that at this time the undersigned expects to be available for phone consultation by the parties during the deposition. Nevertheless, due to the inefficiency thereof, the parties are strongly encouraged to avoid seeking individual evidentiary rulings during the deposition. Instead, they are instructed that to the greatest extent practicable they should note their objections and reasons therefore on the record and then proceed to provide the responsive information requested, unless privileged, understanding that, upon their request, their objections can be ruled upon prior to admission of the deposition transcript into evidence.